

Worksession

Agenda Item #	10
Meeting Date	12 July 2004
Prepared By	Sara Anne Daines ECD Director
Approved By	Richard M. Finn City Manager

Discussion Item	Code Enforcement - Air Conditioners. Continued discussion of Montgomery County Code Enforcement actions regarding air conditioners.
Background	<p>On June 21, 2004, the City Council received an update from Montgomery County on the enforcement of electrical code requirements which affect the use of window air conditioning units in Takoma Park rental units. Of specific interest was the enforcement of Section 26-6 (a) (6) of the Montgomery County Housing and Building Standards Code. The code was adopted by the City Council in 2003 and serves as the City's Property Maintenance Code.</p> <p>The code requires that "(e)ach individual room air conditioning unit, regardless of its current rating, must be served by not less than an individual 20-amp circuit using No. 12 copper wire which terminates in a single receptacle." Landlords cited for violation of this requirement have been given two options by the County inspection staff: to either install the required service or remove the individual window units.</p> <p>Following this presentation, HCD staff were directed to identify possible means of ensuring that Takoma Park tenants continued to have access to air conditioning in their units. A listing of various options identified by staff is attached for your consideration.</p>
Policy	To enforce minimum standards of health and safety, fire protection, light and ventilation, cleanliness, repair and maintenance, and occupancy of rental housing residences.
Fiscal Impact	Will vary with option
Attachments	<ul style="list-style-type: none"> • Current Enforcement and Outreach Efforts • Options to Consider
Recommendation	To discussion the implementation of one or more of the proposed options
Special Consideration	

CURRENT ENFORCEMENT AND OUTREACH ACTIVITIES

Enforcement of Section 26-6 (a) (6) of the Property Maintenance Code which requires dedicated electrical service for all individual window air-conditioning units

July 12, 2004

Inspection Process

Takoma Park Landlords have been advised of the need for dedicated electrical service by the County during the inspection process (beginning in October 2003). As of July 7, 2004, a total of 136 rental facilities had been identified as lacking the required electrical service.

Current Abatement Options Available to Landlords

The period in which a violation such as this must be abated is generally thirty days. The abatement period can be extended for up to ninety (90) days if the landlord is able to document that the required electrical work is under contract and will be completed by a specific date. The window units can remain in place and operating until the abatement date.

Landlords receiving a violation notice have been advised by the County that, to abate the violation, they could either upgrade the service or remove the individual window units.

Options Currently Available to Affected Tenants

Tenants have been encouraged by HCD to file a COLTA complaint in cases where the landlord elected to remove or require the removal of all window air-conditioning units. The first case, filed by the residents of 8508 Flower Avenue, is to be heard by COLTA on Wednesday, July 14th.

Given the differences in the housing stock and the lease arrangements individual tenants may have entered into, a number of options are available to those facing the loss of air conditioning.

- Where removal of the window unit is the option exercised by landlords who pay electricity charges and the lease indicates that air conditioning is provided (or the landlord owns the window unit), the landlord may be required by order of the Commission on Landlord-Tenant Affairs (COLTA) to restore the air conditioning or reduce the rent for the affected rental unit. A complaint would have to be filed by the affected tenant before a COLTA order would be issued.
- In instances where the lease is silent on the provision of air conditioning but the rental unit had a window unit when the tenancy commenced and the landlord is responsible for electricity charges, the landlord may be required, subject to a subsequent COLTA Order, to restore the air conditioning or to reduce rent. A complaint would have to be filed by the affected tenant before a COLTA order would be issued.
- Tenants in buildings where their lease allowed for a tenant supplied window unit if they paid an additional fee for the air conditioning during the summer months may seek to have the service restored voluntarily by the landlord, seek a voluntary rent reduction from the landlord for the loss of the previously available service, or file a complaint with COLTA.

Current Education and Outreach Efforts

The following outreach efforts have been undertaken by the County and HCD staff since the issue was identified.

- Landlords and agents attending the monthly Landlord Certification Seminars have been advised of the need to provide dedicated electrical service for all individual window units and encouraged to make the necessary upgrades. Information on available funding resources and the capital improvement petition process was provided.
- Local landlords have been advised by the County in writing of the need for a dedicated electrical service for all window units and encouraged to contact our office to identify what responsibilities they have to their Tenants in the event they choose to remove the individual window units. Letters continue to be distributed at initial license inspections.
- Letters advising affected landlords have and continue to be sent, encouraging them to make the required upgrades to their electrical service. Information on available financing resources and how to offset the costs of required improvements is included in the letter.
- An article discussing the requirements of the code and its impact on local tenants was included in the June issue of the Takoma Park Newsletter. Information on the options available to both tenants and landlords was provided.

LISTING OF AVAILABLE OPTIONS

Enforcement of Section 26-6 (a) (6) of the Property Maintenance Code which requires dedicated electrical service for all individual window air-conditioning units

July 12, 2004

The following listing of options is proposed as a means of addressing the Council's concerns regarding the loss of air conditioning for local tenants resulting from the enforcement of Section 26-6(a)(6) of the Property Maintenance Code.

Adoption of Emergency Ordinance

Adoption of an emergency ordinance identifying the health hazards associated with the loss of air conditioning and stating that the Montgomery County Code §26-6(a)(6) is not effective in the City of Takoma Park until January 2005. Adoption of such emergency ordinance would allow landlords to reinstate any individual window A/C units that have been removed per Code Enforcement violation notice on a temporary basis.

Revision of Existing Ordinance

The existing ordinance could be revised to address the long term impact of the enforcement of the property maintenance code.

Property Maintenance Code - New Section on Air Conditioning (Section 6-307)

Expand code to include language that states "At least one habitable room must be served by not less than one dedicated 20-amp circuit using No 12 copper wire which terminates in a single receptacle and is accessible to opening capable of use by air-conditioning unit."

Landlord Tenant Relations - Reduction in Rent (Section 6-400)

Provide for the reduction of rent equal to the annual rent stabilization allowance for any rental unit where an individual window air-conditioning unit - regardless of its ownership or who paid for the cost of the utility - was removed.

Rent Stabilization - Petitions for rent increases for capital improvements (6-505(d)(2))

Include in the definition of an eligible capital improvement "Cooling-related capital improvement."

"Cooling-related capital improvements" shall be any physical improvement or upgrade to a rental unit or rental facility, whether labor or materials, which enhances the livability of a rental unit or rental facility during the months of May through October, regardless of cost, and which is not annually recurring in nature. The following are examples of cooling-related capital improvements:

- 1) installation of dedicated 20-amp circuit using No 12 copper wire which terminates in a single receptacle;
- 2) installation of central air conditioning or a central heat pump; and

- 3) purchase and installation of individual energy efficient portable or window/wall air-conditioning units.

COLTA - Defective Tenancy (Section 6-608(b)(1)A)

Include in the Ordinance as a possible remedy "the restoration of essential services such as air conditioning, the elimination of which resulted in a defective tenancy."

Financial Incentives

The cost of the required upgrades varies from one property to another and may range from a couple of hundred dollars to several thousand dollars depending upon the amount of electrical work that must be completed and the number of affected rental units.

Grant Funds

Provide grant funds to landlords to make necessary improvements with the condition that the cost of the improvement could not be passed onto the tenant. Source of funding is unknown at this time but, given the lack of grant funds available for this type of activity, it would be reasonable to assume that the cost of the program would have to be absorbed by the City.

Waive License Fee

Waive rental housing license fee for one year for all rental units in which the landlord upgraded the electrical service. Current rental housing licensing effort is generally self sustaining. The loss of revenue would require the infusion of additional city resources.

Continuation of Current Education and Outreach Campaign

Regardless of the option selected by the Council, HCD staff strongly supports the continuation of current education and outreach efforts. The campaign would be expanded to include additional mailings and articles in the newsletter, posting on the Notice Board, and use of City TV.